

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.	:	10/716,248	Confirmation No. 5207
Applicant	:	David M. Tucker & Charles R. Yemington	
Filed	:	02/13/2003	
TC/AU	:	2856	
Examiner	:	David Rogers	
Docket No.	:	205-0034RI1	
Customer No.	:	29855	

**DECLARATION OF BILLY C. ALLEN III IN SUPPORT OF PETITION UNDER
37 CFR § 1.183 TO ACCEPT A SUPPLEMENTAL REISSUE DECLARATON
SIGNED BY FEWER THAN ALL OF THE INVENTORS**

I, Billy C. Allen III, being duly sworn, depose and say:

1. I am over the age of 18, a U.S. Citizen, have personal knowledge of the events set forth below, and am otherwise competent to make this Declaration. My mailing address is 20333 Tomball Parkway, Suite 600; Houston, Texas 77070.
2. I am a licensed attorney in the state of Texas and am authorized to practice before the USPTO in patent matters. In about March, 2010, I assumed responsibility for the prosecution of the instant reissue application.
3. On or about May 24, 2010, I received a telephone call from Examiner Michael Day informing me that the case was in condition for allowance but for a newly executed supplemental reissue declaration, a/k/a “catch-up declaration.” I informed Mr. Day that I would attempt to obtain such a declaration from the inventors, but advised him that neither inventor was currently an employee of my client and that I might have some difficulty contacting them.
4. On May 27, 2010, I prepared and sent an e-mail to Mr. Charles Yemington, inventor of the instant application, providing a supplemental reissue declaration and a copy of all pertinent materials from the reissue proceedings. Mr. Yemington returned an executed declaration to me on May 30, 2010, a copy of which is filed herewith.

5. Also on or about May 27, 2010, I reviewed the file for contact information for the other inventor, Mr. David Tucker. In the file, I discovered the e-mail (attached as Exhibit A) from Mr. Pat McCollum (formerly in-house counsel for the assignee of the present invention) to Dr. Marilyn Huston (formerly of my firm and formerly the responsible for the instant matter) indicating that Mr. Tucker had previously refused to meet with any representatives of the assignee of the instant application and had directed that a previous supplemental declaration be forwarded to him through his attorney, Mr. Wayne Clawater.
6. Because Mr. Tucker is represented by counsel in connection with this matter, Texas Rule of Professional Conduct 4.02 and 37 CFR § 10.87 prohibit me from directly contacting Mr. Tucker. Therefore, on or about May 27, 2010, I sent an e-mail to Mr. Clawater (attached as Exhibit B) explaining the situation and including a supplemental declaration for Mr. Tucker and including a copy of the most recent claim amendments from the reissue, which had not previously provided to Mr. Tucker.
7. Within two hours of my e-mail, I received a reply e-mail from Mr. Clawater (attached as Exhibit C) indicating that he was out of town and would address the matter the next day.
8. When I did not receive any further communications from Mr. Clawater after about one week, I left a message for Examiner Day, indicating that I had not yet been able to secure a declaration from Mr. Tucker. On June 15, 2010, I sent a further e-mail to Mr. Clawater inquiring whether he had yet addressed the matter with his client. Examiner David Rogers subsequently issued the Final Office Action requiring the supplemental declaration on June 21, 2010. As of the date of this declaration I have not received any further communication from Mr. Clawater nor have I received any communication from Mr. Tucker.

9. Based on the facts set forth above, I previously filed a petition requesting that the Office accept a reissue declaration signed by fewer than all of the inventors. That petition was dismissed on December 1, 2010. In that dismissal, the Petitions Examiner advised that:

Petitioner should mail a complete copy of the supplemental reissue declaration and amended claims to Clawater's mailing address, return receipt requested, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. If the papers are returned and all other attempts to locate or reach attorney Clawater continue to fail, then applicant will have established that the inventor cannot be reached (through his attorney) after diligent effort or has refused to join in the application.

10. In response to the above paragraph, I prepared such a letter, which is attached as Exhibit D. This letter was sent by certified U.S. mail, return receipt requested on December 10, 2010. The return receipt (a copy of which is attached as Exhibit E) indicates that the letter was received. Additionally, a courtesy copy was sent to Mr. Clawater's office by facsimile, and the fax confirmation (attached as Exhibit F) also indicates successful delivery. Both Mr. Clawater's contact information was obtained from his firm's website and confirmed against his state bar profile (copies of which are attached as Exhibit G).
11. As of the date of this declaration, I have not received any of: (1) an executed declaration, (2) consent of Mr. Clawater to contact Mr. Tucker directly, (3) questions about the supplemental declaration or reissue proceedings, or (4) an express refusal to provide the reissue declaration
12. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements are punishable under 18 U.S.C. § 1001 and may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Respectfully submitted,

By Billy C. Allen III/ Date: December 21, 2010
Reg. No. 46,147
Wong, Cabello, Lutsch, Rutherford & Brucculeri, L.L.P.
20333 State Hwy 249, Suite 600
Houston, TX 77070
(832) 446-2400
wcpatent@counselip.com

EXHIBIT A

Marilyn Huston

From: Mccollum, Pat [Pat.Mccollum@weatherford.com]
Sent: Friday, March 02, 2007 1:58 PM
To: Marilyn Huston
Subject: RE: supplemental oath.pdf

Wayne Claywater
Cruse, Scott, Henderson & Allen, L.L.P.
2777 Allen Parkway
7th Floor
Houston, TX 77019-2133

Please send me a copy of any letter you send. I need to give a copy to Weatherford's litigation attorney so he can give a copy to Weatherford's outside counsel.

From: Mccollum, Pat
Sent: Friday, March 02, 2007 11:41 AM
To: 'Marilyn Huston'
Subject: RE: supplemental oath.pdf

Yemington signed. Yemington wants a copy of the Declaration when fully executed (I have no idea why). Tucker refused to meet with anyone from Weatherford. He said to send the Declaration to his lawyer, Wayne Claywater. It sounds like Tucker's position is that under the SPA he had an obligation to execute papers such as this but since Weatherford breached the SPA, he no longer has any such obligation. I suggest that you call Claywater, 713 650 6600, and explain what we need and send him (sorry I do not have the address) a blank Declaration for Tucker to sign. If Tucker will not sign hopefully we will get a letter from the lawyer so stating so we can use the letter in support of a petition. I will deliver the Declaration signed by Yemington to Cabello when I see him on Tuesday.

From: Marilyn Huston [mailto:MHuston@Counselip.com]
Sent: Thursday, March 01, 2007 3:39 PM
To: Mccollum, Pat
Subject: supplemental oath.pdf

CONFIDENTIAL & PRIVILEGED COMMUNICATION

The information contained in this message is privileged, confidential, and protected from disclosure. This message is intended for the individual or entity addressed herein. If you are not the intended recipient, please do not read, copy, use or disclose this communication to others. Also please notify the sender by replying to this message, and then delete it from your system. The sender totally disclaims, and will not accept, any responsibility or liability for the unauthorized use, or the consequences of any unauthorized use, of this communication or message.

This email has been scanned by the MessageLabs Email Security System.
For more information please visit <http://www.messagelabs.com/email>

EXHIBIT B

Billy Allen

From: Billy Allen
Sent: Thursday, May 27, 2010 10:44 AM
To: 'wclawater@sschlaw.com'
Subject: Mr. David M. Tucker—Supplemental Reissue Declaration for U.S. Patent 6,539,248
Attachments: Supplemental Declaration Form 2010-05-27.pdf; Amendment 2009-02-23.pdf

Mr. Clawater,

I represent Valkyrie Commissioning Services and its parent Weatherford International in various patent matters. Mr. Tucker, one of our former employees and inventors, has in the past directed us to contact him through you.

We are currently prosecuting a reexamination (serial number 10/716,248) of U.S. Patent 6,539,778, of which Mr. Tucker is an inventor. Our current posture before the PTO requires that we provide a supplemental declaration from Mr. Tucker attesting that the errors corrected in the reexamination occurred without deceptive intent.

You may recall discussing this matter with my former partner, Dr. Marilyn Houston, approximately three years ago and that Mr. Tucker provided a supplemental declaration at that time. However, supplemental declarations must be executed after all amendments to the patent, and we have made further amendments since Mr. Tucker's prior declaration.

Therefore, I have attached a new supplemental declaration (a standard PTO form) and a copy of our most recent amendment, which cumulatively shows all changes made to the claims of patent. I would very much appreciate your passing this on to your client for signature and returning it to me at your earliest convenience. A faxed or scanned copy is sufficient. The PTO will likely set a two-month deadline for filing this declaration in the next few days.

Thank you for your assistance, and please do not hesitate to contact me if you have any questions or concerns.

Billy C. Allen III
Attorney at Law
Wong, Cabello, Lutsch,
Rutherford & Brucculeri, LLP
20333 State Hwy 249, Ste 600
Houston, Texas 77070
832-446-2409 (direct)
832-446-2424 (fax)

EXHIBIT C

Billy Allen

From: Wayne Clawater [WClawater@sschlaw.com]
Sent: Thursday, May 27, 2010 11:49 AM
To: Billy Allen
Subject: Re: Mr. David M. Tucker--Supplemental Reissue Declaration for U.S. Patent 6,539,248

I am in Dallas today and will address. This tomorrow.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Billy Allen <BAllen@Counselip.com>
To: Wayne Clawater
Sent: Thu May 27 10:43:43 2010
Subject: Mr. David M. Tucker--Supplemental Reissue Declaration for U.S. Patent 6,539,248

Mr. Clawater,

I represent Valkyrie Commissioning Services and its parent Weatherford International in various patent matters. Mr. Tucker, one of our former employees and inventors, has in the past directed us to contact him through you.

We are currently prosecuting a reexamination (serial number 10/716,248) of U.S. Patent 6,539,778, of which Mr. Tucker is an inventor. Our current posture before the PTO requires that we provide a supplemental declaration from Mr. Tucker attesting that the errors corrected in the reexamination occurred without deceptive intent.

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Thank you for your assistance, and please do not hesitate to contact me if you have any questions or concerns.

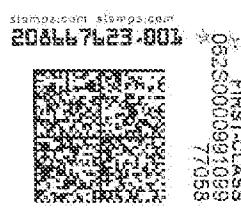
Billy C. Allen III
Attorney at Law
Wong, Cabello, Lutsch,
Rutherford & Bruculeri, LLP
20333 State Hwy 249, Ste 600
Houston, Texas 77070
832-446-2409 (direct)
832-446-2424 (fax)

For more information please visit <http://www.messagelabs.com/email>

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EXHIBIT D

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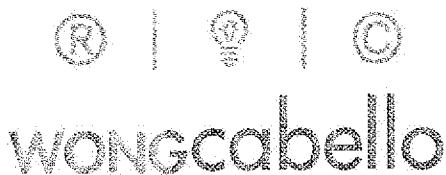
WongCobello

Wong, Cobello, Lautsch, Rutherford & Bucculeri, LLP

20333 SH 249, Suite 600 Houston, Texas 77070

www.counsellp.com

MR. WAYNE CLAWATER
SHEPHERD, SCOTT, CLAWATER &
HOUSTON, L.L.P.
2777 ALLEN PARKWAY, 7TH FLOOR
HOUSTON, TEXAS 77019-2133



ATTORNEYS AND COUNSELORS AT LAW
Intellectual Property

Billy C. Allen III
Direct 832-446-2409
Email: ballen@counselip.com

December 10, 2010

Mr. Wayne Clawater
Shepherd, Scott, Clawater & Houston, L.L.P.
2777 Allen Parkway, 7th Floor
Houston, Texas 77019-2133

VIA CERTIFIED MAIL # 700900800000001526390
RETURN RECEIPT REQUESTED
COURTESY COPY VIA FACSIMILE TO 713-650-1720

Re: Supplemental Reissue Declaration of Mr. David M. Tucker for U.S. Patent 6,539,248

Dear Mr. Clawater:

I represent Valkyrie Commissioning Services and its parent Weatherford International in various patent matters. Mr. Tucker, one of our former employees and inventors, has in the past directed us to contact him through you.

We are currently prosecuting a reexamination (serial number 10/716,248) of U.S. Patent 6,539,778, of which Mr. Tucker is an inventor. Our current posture before the PTO requires that we provide a supplemental declaration from Mr. Tucker attesting that the errors corrected in the reexamination occurred without deceptive intent.

You may recall discussing this matter with my former partner, Dr. Marilyn Houston, approximately three years ago and that Mr. Tucker provided a supplemental declaration at that time. However, supplemental declarations must be executed after all amendments to the patent, and we have made further amendments since Mr. Tucker's prior declaration.

Therefore, I have enclosed a new supplemental declaration (a standard PTO form) and a copy of our most recent amendment, which cumulatively shows all changes made to the claims of patent. I would very much appreciate your passing this on to your client for signature and returning it to me at your earliest convenience. A faxed or scanned copy is sufficient. An absolute, non-extendible deadline of December 21, 2010 exists for returning this form to the Patent Office. Therefore, I must have an executed declaration no later than December 20, 2010.

Wong, Cabella, Lutsch, Rutherford & Bruculeri, L.L.P.

HOUSTON | 20333 SH 249, Suite 600 Houston, Texas 77070 T 832.446.2400 F 832.446.2424

AUSTIN | 221 W. 6th Street, Suite 950 Austin, Texas 78701 T 512.473.2550 F 512.473.2555

www.counselip.com

WONGCABELLO

Mr. Wayne Clawater
December 10, 2010
Page 2 of 2

I apologize for the short notice; however, I note that I previously contacted you regarding this matter (via e-mail in May and June of this year) and have received no response. Additionally, I have only this week been advised by the U.S. Patent Office that my previous e-mail communications, which you undoubtedly received, are not sufficient to establish Mr. Tucker's refusal to sign the supplemental declaration. Therefore, please be advised that failure to provide Mr. Tucker's signed declaration will be construed as a refusal to sign.

Sincerely,



Billy C. Allen III
Attorney at Law
Wong, Cabello, Lutsch,
Rutherford & Bruculeri, LLP

Enclosures

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

**SUPPLEMENTAL DECLARATION
FOR REISSUE
PATENT APPLICATION
TO CORRECT "ERRORS" STATEMENT
(37 CFR 1.175)**

Attorney Docket Number	205-0034USR
First Named Inventor	Tucker, David M.
<i>COMPLETE if known</i>	
Application Number	10/716,248
Filing Date	November 17, 2003
Art Unit	2856
Examiner Name	David A. Rogers

IWe hereby declare that:

Every error in the patent which was corrected in the present reissue application, and which is not covered by the prior oath(s) and/or declaration(s) submitted in this application, arose without any deceptive intention on the part of the applicant.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

IWe hereby declare that all statements made herein of my/our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Name of Sole or First Inventor:	<input type="checkbox"/> A petition has been filed for this unsigned inventor		
Given Name (first and middle [if any])	Family Name or Surname		
David M.	Tucker		
Inventor's Signature		Date	
Name of Second Inventor:	<input type="checkbox"/> A petition has been filed for this unsigned inventor		
Given Name (first and middle [if any])	Family Name or Surname		
Charles R.	Yemington		
Inventor's Signature		Date	

Additional inventors or legal representatives(s) are being named on the _____ supplemental sheets PTO/SB/02A or 02LR attached hereto.

This collection of information is required by 37 CFR 1.175. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.8 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No. : 10/716,248 Confirmation No. 5207
Applicant : David M. Tucker
& Charles R. Yemington
Filed : 11/17/2003
TC/AU : 2856
Examiner : Rogers, David A.
Docket No. : 205-0034R1
Customer No. : 29855

EFS Submission
Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231

AMENDMENT AND RESPONSE

Sir:

In response to the non-final office action mailed 09/23/2008, Applicants respectfully request consideration of amendments submitted herewith. A two month extension of time is hereby requested. Should any further fees be required for consideration of any part of this submission, authorization to debit Deposit Account No. 50-1922 is hereby given.

Please amend the above identified application as follows:

Amendments to the Claims are reflected in the listing of claims, which begins on page 2 of this paper.

Remarks/Arguments begin on page 6 of this paper.

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings of claims in the application:

Listing of Claims:

Claim 1 (five times amended): A method of cleaning, dewatering, [and] or hydrostatic testing a pipeline between two subsea manifolds, one of said manifolds having a subsea pig launcher/receiver with a pig and the other having a subsea pig receiver comprising:

providing a fill and test package comprising one or more pumps mounted on the test and fill package wherein the test and fill package mounted pump or pumps are dimensioned for cleaning, dewatering, and pressurizing to a sufficiently high pressure for hydrostatic pipeline testing;

using a submersible vehicle (SV) to deploy the fill and test package to one of the subsea manifolds;

using [a submersible vehicle (SV)] the SV to operate one or more pumps on [[a]] the fill and test package to force seawater behind said pig and move the pig from the pig launcher/receiver to the pig receiver, and

using said SV to [pump more water into said pipeline to a test pressure and maintaining said pressure that there are no leaks in said pipeline] supply power to at least one of the one or more pumps for cleaning, dewatering, or hydrostatic testing of the pipeline.

Claim 2 (original): A method according to claim 1 wherein the test pressure is read on a gauge mounted on a panel on said pig launcher/receiver.

Claim 3 (four times amended): A method according to claim [2] 1 wherein said fill and test package is carried by said SV.

Claim 4 (four times amended): A method for [commissioning] cleaning and hydrostatic testing a subsea pipeline [while both ends are on the subsea floor] between two [subsea] manifolds, one of said manifolds having a subsea pig launcher/receiver with a pig and the other having a [subsea] pig receiver comprising:

providing a fill and test package comprising one or more pumps including at least one high pressure pump dimensioned to pressurize the pipeline to a high-pressure hydrostatic test pressure;

using a submersible vehicle (SV) to deploy the fill and test package to one of the manifolds;

using [[a]] the SV [, operating pumps] to operate at least one pump on [[a]] the fill and test package to force seawater behind said pig and move the pig from the pig launcher/receiver to the pig receiver; and

[pumping] operating at least one high pressure pump to pump more [water] seawater into said pipeline to [a] pressurize the pipeline to a high-pressure hydrostatic test pressure and maintaining said pressure to assure that there are no leaks in said pipeline [using a SV, connecting a line from a compressed gas pack to said pig launcher/receiver for flow of compressed gas to force said pig to said pig launcher/receiver; and pumping using a dewatering pump to suck water from said pipeline and moving said pig and compressed gas through the pipeline to said pig launcher/receiver].

Claim 5 (thrice amended): A method according to claim 4 wherein said SV has a robotic arm for connecting and disconnecting said at least one high pressure pump to said pipeline.

Claim 6 (four times amended): A method for [the] hydrostatic testing of a pipeline before its ends are connected wherein both ends are on the seafloor comprising:

providing a subsea fill and test package comprising one or more pumps including at least one high pressure pump dimensioned to pump sufficient seawater into the pipeline to pressurize the pipeline to a high-pressure hydrostatic test pressure without need for a downline from a surface vessel;

using a submersible vehicle (SV) to deploy the fill and test package to one of the ends; and
using [a submersible vehicle (SV)] the SV to operate [pumps] at least one high pressure pump on [a] the fill and test package to pump seawater into the pipeline to raise the internal pressure of the pipeline sufficiently for a high-pressure hydrostatic [testing of the pipeline] commissioning test.

Claim 7 (new): A method for hydrostatic testing of a pipeline on the seafloor comprising:

using a submersible vehicle (SV) to deploy a fill and test package to a subsea location and to operate one or more pumps mounted on the fill and test package, including at least one high pressure pump dimensioned to pressurize the pipeline to a high-pressure hydrostatic test pressure without need for a downline from a surface vessel to provide pressurization,

Claim 8 (new): A method for hydrostatic testing of a water filled pipeline on the seafloor comprising:

using a submersible vehicle (SV) to deploy a fill and test package to a subsea location and to operate at least one high pressure pump mounted on the fill and test package to pump water into said water filled pipeline to pressurize the pipeline sufficiently for high-pressure hydrostatic testing without need for a downline from a surface vessel to provide pressurization.

Claim 9 (new): A method for the hydrostatic testing of a pipeline between two subsea manifolds comprising:

using a submersible vehicle (SV) to deploy and operate one or more pumps on a fill and test package to pump seawater from near the seafloor to pressurize the pipeline sufficiently for high-pressure hydrostatic testing without need for a downline from a surface vessel to provide pressurization.

Claim 10 (new): A method according to claim 4, further comprising:

using a SV, connecting a line from a compressed gas pack to said pig launcher/receiver for flow of compressed gas to force said pig to said pig launcher/receiver; and pumping using a dewatering pump to suck water from said pipeline and moving said pig and compressed gas through the pipeline to said pig launcher/receiver.

REMARKS/ARGUMENTS

The subsea pipeline commissioning method and apparatus of the present invention accomplishes subsea pipeline cleaning, dewatering or hydrostatic testing that is completely subsea using a submersible vehicle (SV) that carries and operates at least one pump on a fill and test skid that is dimensioned and powered to be to perform any of the activities of cleaning (pigging), dewatering, and pressurizing to perform hydrostatic testing. The prior art of record provides no teaching of such an apparatus and thus no teaching of a method of its use. The present claims have been amended to clarify this novel and unique contribution to subsea pipeline service with its concomitant elimination of the need of a surface vessel having pumps on board the vessel to provide pumping capacity of a magnitude sufficient to conduct hydrostatic testing if desired.

I. Status of the Claims and Support for Amendments:

Claims 1- 10 are pending in the reissue application, of which claims 6 – 10 are new respective to the prior issued patent.

Amendments to the claims from the last amendment are as follows:

Amendments to claim 1: Claim 1 now clarifies that the “pump or pumps mounted on the test and fill package are dimensioned for cleaning, dewatering, and pressurizing to a sufficiently high pressure for hydrostatic pipeline testing.” While each of these activities might not be required in a given deployment, the pump or pumps mounted on the test and fill package are dimensioned to be capable of such activities.

Claim 2 has been amended to be as originally issued.

Claims 3, 5 and 10 are not amended in this response.

Claims 4, 6 and 7 are amended to clarify that the pump or pumps mounted on the test and fill package are dimensioned for pressurizing to a hydrostatic commissioning test pressure.

Amendments to claims 6 - 9: Claims 6 - 9 are amended to clarify that the one or more pumps including at least one high pressure pump are dimensioned for sufficient pumping to pressurize the pipeline to a high-pressure hydrostatic test pressure without need for a downline from a surface vessel.

Amendments to claims 7 and 8: Per the Examiner's suggestion, claims 7 and 8 are amended to clarify that the fill and test package is deployed subsea.

II. Rejections of claims 6 and 7 under §102 (a)

Claims 6 and 7 have been amended to clarify that the one or more pumps mounted on the fill and test package are adapted and are sufficient to pressurize the pipeline sufficiently for high-pressure hydrostatic testing without need for a downline from a surface vessel. As clarified in the Everard deposition, the "pressurization phase in the industry is known when you start from zero [pressure] and take it up to pressure." (Everard Deposition: pg. 31, lns. 10 – 15). This is in stark contrast to BJ PPS wherein the pipeline had already been conventionally filled and brought to hydrostatic commissioning pressure using a 2" coflexip down line connected to pumps on a surface vessel. (*Id.*: pg. 26, lns. 10 – 23). Because the already pressurized line of the BJ PPS project began to lose pressure, the ROV glycol pump was used as an emergency solution to deliver a very small amount of additional volume for "repressurization." (*Id.*: pg. 31, lns. 10 – 15). The BJ PPS ROV mounted glycol pump was dimensioned for and normally used to actuate subsea manifold valves (*Id.*: pg. 19, lns. 21 – 24) and was of such minimal capacity that its rated flow rate was in the order of "less than one millimeter per stroke." (*Id.*: pg. 20, lns. 4 – 5). Clearly, pressurizing the pipeline with the glycol pump would have been out of the question.

In BJ PPS, there was no test and fill package (pumping skid) and there were no subsea pumps dimensioned to fill or pressurize a pipeline. Had a higher flow rate been required than that available to top off the existing high pressure in the pipeline, it was admitted that use of the Coflexip down line would have been required. (*Id.*: pg. 20, lns. 15 - 20).

III. Rejections of claims 1, 3, 4, 8 and 9 under §103

Claims 1, 3, 4, 8 and 9 have been rejected under §103 over the combination of BJ PPS and Graves. Graves is asserted to teach pipeline flooding using hydrostatic pressure with pigging completion using a subsea pigging unit but is acknowledged to lack a high pressure pump dimensioned to provide hydrostatic testing pressure. The lack of a high pressure pump in Graves is asserted to be remedied by BJ PPS, which is asserted to provide a ROV operated high pressure pump. Independent claims 1, 4, 8 and 9 have been amended to clarify that at least one pump of the claimed test and fill package is dimensioned to provide pipeline commissioning without need for a

surface pressure connection. The claimed test and fill package includes at least one pump dimensioned to pressurize a subsea pipeline to a hydrostatic test pressure, meaning starting from essentially zero pressure and taking up to hydrostatic test pressure. As previously described in reference to the §102 rejection, this clearly differs from BJ PPS, which provides no teaching or suggestion of a skid mounted pump that is dimensioned to pressurize a pipeline. BJ PPS required the prior pressurization via surface vessel mounted pumps. Indeed, Everard, the project engineer for the BJ PPS project, when presented several years later with the possibility of a subsea hydrotesting pump, stated "I wish I had thought of a similar idea, because I've carried out a similar operation on a minor scale with a glycol pump in Brazil." (*Id.*: pg. 30, ln 10 – 12). Apparently, even an individual associated with BJ PPS was not able to conceive of a skid mounted subsea pump able to deliver pressurize a pipeline to perform hydrostatic pressure testing.

The Examiner has stated that the deposition of Mike Dupre clearly indicates that high-pressure pumps powered by an ROV and coupled to ROV mounted skids were an established practice in the art of hydrotesting subsea pipelines and that the equipment needed already existed. This conclusion is respectfully but firmly traversed. The Dupre description of technology that did not exist but in his expressed opinion could have conceivably been done does not constitute any form of §102 art. It is noted that Dupre apparently based his opinion on a prior pressure testing of a manifold having a volume of 9 gallons (Dupre Deposition: pg. 22 – 23, referring to the Sonsub Macaroni project) and that significant modifications would have to be done for hydrotesting a flowline – including "wished" for equipment (Dupre Deposition: pg. 29, lns. 15 – 25).

CONCLUSION

The Examiners approval of claim 10 is appreciated. For the reasons stated herein, the Applicant respectfully submits that the independent claims of the reissue application are now in condition for allowance and that the claims that depend therefrom are likewise in condition for allowance. Upon approval of the claims, a further reissue declaration will be obtained.

The Commissioner is authorized to charge any additional fees incurred in this application or credit any overpayment to Deposit Account No. 50-1922. Should the Examiner have any questions, please do not hesitate to call Applicant's attorney at 832-446-2421.

Serial No. 10/716,248
Reply to Office Action of 09/23/2008

Respectfully submitted on February 23, 2009.

By



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Billy C. Allen III
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From: Billy C. Allen III

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Re: Supplemental Reissue Declaration of Mr. David M. Tucker Pages (including cover page): 14

COMMENTS:

Please refer to the attached correspondence from Billy C. Allen III. If you have any questions, please feel free to contact us.

Kind regards,

Sylvia Martinez
Assistant to Billy C. Allen III

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Education: **University of Texas (B.B.A., 1977); South Texas College of Law (J.D., with highest honors, 1981); Briefing Attorney, Supreme Court of Texas 1981-1982.**

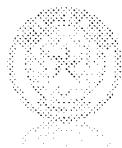
Member: **Houston Bar Association, (Fellow), Houston Bar Foundation, State Bar of Texas, American Board of Trial Advocates - associate member.**

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Eligible To Practice In Texas

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License Information

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Texas License Date: 05/15/1981

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Firm Size: 11 to 24
Occupation: Private Law Practice
Practice Areas: Litigation: Personal Injury
Services Provided: Language translation: **Not Specified**
Hearing impaired translation: **Not Specified**
ADA-accessible client service: **Not Specified**
Languages Spoken: None Reported By Attorney

Law Schools

Law School	Graduation Date	Degree Earned
South Texas College Of Law	12/1980	Doctor of Jurisprudence/Juris Doctor (J.D.)

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Sanction	Date of Entry	Sanction Date	Probation Date
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Start - End	Start - End	Courts of Admittance
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		Texas Eastern District Court
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